

IV. Remarks.

The Examiner entered the following rejections in the office action.

1. Claims 1, 2 and 4-9 are rejected under 35 USC 102(b) as being anticipated by Kempf, U.S. 3,052,107.

In order to sustain a 102(b) rejection the references must teach or suggest all of the claim limitations as arranged in the claim.

As to claim 1, Applicant respectfully argues that the resilient member is not taught by Kempf. Kempf teaches a cardboard pipe or tube 4 which is inserted into shaft 1. Tube 4 is not taught to be resilient nor is it known to be resilient. Kempf refers to "polyamide" at col. 2, line 10, which is also known as nylon. Neither cardboard nor nylon is known in the art for being particularly resilient. Resilient is defined as "2. returning to the original form or position after being bent, compressed or stretched." pg. 1638, Random House Unabridged Dictionary, 2ed., Random House, New York, 1993. The damping characteristic described by Kempf is only caused when "*friction* between such inserted cardboard pipe or tube and the inner surface of the shaft is sufficient to dampen occurring bending and/or torsion oscillations", col. 1, lines 39-42 (emphasis added). A frictional engagement to damp an oscillation does not teach a resilient member.

Further, Kempf does not teach compressing tube 4 between end caps 5, 6. Caps 5, 6 are welded in shaft 1 to hold tube 4 in place, col. 2, lines 1-3. No mention is made of caps 5, 6 radially (or axially) compressing tube 4, nor does Fig. 1 show any indication tube 4 is compressed in the claimed manner.

Claim 2 depends from claim 1.

Claim 4. In the argument for claim 1 the Examiner identifies the inertial member as end cap (5). However, in the argument for claim 4 the Examiner appears to change the "inertial member" element he is referring to, namely, he cites col. 1, lines 39-43 which only makes reference to the cardboard pipe or tube, col. 1, lines 39-40, instead of end cap (5). Assuming the Examiner did not intend to change element references, Kempf does not teach that end cap (5) damps a bending vibration. Only tube 4 is taught to damp a vibration, col. 1, line 41 and col. 1, lines 48-50.

As to claim 5, Applicant respectfully disagrees with the Examiner's characterization of a center opening in sheet metal cap 6 as a "groove". A central opening in cap 6 does not comprise a groove as that term is commonly understood or defined. As such the interpretation of the center opening is overly broad. Groove is defined as "1. a long, narrow cut or indentation in a surface, such as the cut in a board to receive the tongue of another board, a furrow." Pg. 842, Random House

Unabridged Dictionary, 2ed., Random House, New York, 1993. Further, the opening in cap 6 identified by the Examiner is not described in the specification.

As to claim 6, Applicant asserts that Kempf does not teach a plurality of resilient members. Kempf teaches a single tube 4 which substantially extends the length of the shaft 1. Col. 2, lines 27-29.

As to claim 7, as argued above Kempf does not teach a resilient member. It simply teaches a cardboard or nylon tube that has a frictional engagement with shaft 1.

As to claim 8, as argued above the resilient member is not taught by Kempf.

As to amended claim 9, Applicant respectfully disagrees with the Examiner's characterization of a center opening in sheet metal cap 6 as a "groove". The central opening in cap 6 does not comprise a groove as that term is commonly understood or defined. Further, the opening in cap 6 identified by the Examiner is not described in the specification. Finally, amended claim 9 now includes an outer surface.

2. Claim 3 is rejected under 35 USC 103(a) as being unpatentable over Kempf, U.S. 3,052,107 in view of Haushalter, U.S. 3,077,090.

In order to sustain a 103(a) rejection the references must teach or suggest all of the claim limitations. As argued herein, the resilient member is not taught by either reference.

Applicant respectfully disagrees with the Examiner's interpretation of Kempf. Kempf does not teach that tube 4 is "compressed". Kempf teaches away from compression of tube 4 on a number of points. Tube 4 is "slit so that it will engage the interior surface of the pipe by its own *tension*." Col. 1, lines 51-52 (emphasis added). No mention is made of compression of tube 4 as claimed in the instant invention. Although the use of the word "tension" in the reference is somewhat confusing, "tension" and compression as argued by the Examiner cannot be equivalent because tube 4 appears to be simply rolled up and inserted into shaft 1 where it is retained by friction, col. 1, lines 39-42. It appears that the slit is necessary to assure engagement of tube 4 with shaft 1. "Tension" appears to refer to a spring force created by the tendency of the tube to try to unroll once put in the shaft. Holding a body within another in this manner does not necessarily mean the inner body is compressed in the manner claimed. On the other hand, compression is a characteristic of a resilient material, which does not include cardboard or nylon. In fact, the disclosed frictional engagement is apparently insufficient for the task of holding tube 4 as it is necessary to use end caps 5 and 6 welded to the shaft in order to retain the tube 4 therein. Col. 1, line 52 to col. 2 line 3. Nor does Kempf teach that caps 5 or 6 compress tube 4 in shaft 1.

Since compression of the resilient member is not present, Haushalter is not justified.

Allowable Subject Matter.

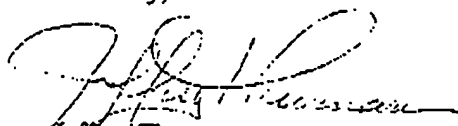
The Examiner suggests that limitations drawn to the inertial member having a groove on the outer surface may positively affect patentability. Applicant appreciates this guidance and directs the Examiner's attention to claim 2, 5 and amended claim 9 in light of the arguments. Applicant also includes new claims 10-15 directed to this limitation.

V. Fees.

Any fees payable for this amendment may be deducted from deposit account 07-0475 in the name of The Gates Corporation.

Thank you for your attention to this case. If any questions arise, please call at the number below.

Sincerely,


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Date: April 9, 2003



26683

PATENT TRADEMARK OFFICE

Notice of Abandonment

Application No.

10/057,028

Examiner

Kenn Thompson

Applicant(s)

ZHU ET AL.

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03 February 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below.

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.